

1 WAYNE BARSKY, SBN 116731
wbarsky@gibsondunn.com
2 Gibson, Dunn & Crutcher LLP
2029 Century Park E
3 Los Angeles, CA 90067-3026
Telephone: 310.557.8183
4 Facsimile: 310.552.7010

5 JASON LO, SBN 219030
jlo@gibsondunn.com
6 JORDAN BEKIER, SBN 273185
jbekier@gibsondunn.com
7 CASSANDRA GAEDT, SBN 280969
cgaedt@gibsondunn.com
8 GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
9 Los Angeles, CA 90071-3197
Telephone: 213.229.7000
10 Facsimile: 213.229.7520

11 Attorneys for CIE GAMES, INC., CROWDSTAR
INTERNATIONAL LIMITED, CROWDSTAR INC.,
12 CROWDSTAR NETWORK, LLC, ELECTRONIC
ARTS INC. d/b/a EA INTERACTIVE d/b/a PLAYFISH
13 d/b/a POGO GAMES, FUNZIO, INC., FUNZIO USA,
INC., ZYNGA INC., and DIGITAL CHOCOLATE, INC.

14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA

16 GAMETEK LLC,

17 Plaintiff,

18 v.

19 FACEBOOK, INC.; FACEBOOK
20 OPERATIONS, LLC; FACEBOOK
PAYMENTS, INC.; FACEBOOK SERVICES,
21 INC.; 6WAVES LLC f/k/a LOLAPPS INC.
d/b/a 6WAVES LOLAPPS d/b/a SIX
22 WAVES; 6WAVES TECHNOLOGIES, LLC
f/k/a LOLAPPS INC. d/b/a 6WAVES
23 LOLAPPS d/b/a SIX WAVES; BIG VIKING
GAMES INC. f/k/a TALL TREE GAMES;
24 BUFFALO STUDIOS LLC; CIE GAMES,
INC.; CROWDSTAR INTERNATIONAL
25 LIMITED; CROWDSTAR INC.;
CROWDSTAR NETWORK, LLC;
26 ELECTRONIC ARTS INC. d/b/a EA
INTERACTIVE d/b/a PLAYFISH d/b/a
27 POGO GAMES; FUNZIO, INC.; FUNZIO
USA, INC.; ROCKYOU, INC.; SIX WAVES
28 INC. f/k/a LOLAPPS INC. d/b/a 6WAVES
LOLAPPS d/b/a SIX WAVES; THEBROTH

CASE NO. 12cv0501-BEN-RBB

**DEFENDANTS CIE GAMES, CROWDSTAR,
ELECTRONIC ARTS, FUNZIO, ZYNGA
AND DIGITAL CHOCOLATE'S NOTICE
OF MOTION AND MOTION TO DISMISS
UNDER 35 U.S.C. SECTION § 299 AND FED.
R. CIV. P. 21**

**[Memorandum of Points and Authorities Filed
Concurrently Herewith]**

HEARING:

Date: July 16, 2012
Time: 10:30 a.m.
Judge: Hon. Roger T. Benitez
Courtroom: 3

1 INC.; WOOGA GMBH; ZYNGA INC.; and
2 DIGITAL CHOCOLATE, INC.

3 Defendants.

4 **PLEASE TAKE NOTICE** that on July 16, 2012, at 10:30 a.m., or as soon thereafter as the
5 matter may be heard, in Courtroom 3 of the above-titled court, located at 940 Front Street, San Diego,
6 CA 92101, Defendants Cie Games, Inc., Crowdstar International Limited, Crowdstar Inc., Crowdstar
7 Network, LLC, Electronic Arts Inc. d/b/a EA Interactive d/b/a Playfish d/b/a Pogo Games, Funzio,
8 Inc., Funzio USA, Inc., Zynga Inc., and Digital Chocolate, Inc. (collectively, “the Moving Parties”)
9 will and do move the Court, pursuant to Federal Rule of Civil Procedure 21, to dismiss the Moving
10 Parties on the following grounds:

11 The Moving Parties are misjoined under 35 U.S.C. § 299 because Plaintiff Gametek LLC has
12 not alleged sufficient facts to support joinder. The Moving Parties are separate companies with
13 independently accused games, the alleged infringements do not arise out of the same transaction or
14 occurrence or have common questions of fact, and Plaintiff has not alleged facts otherwise. Thus,
15 because the Moving Parties are joined in this action solely based on alleged infringement of the same
16 patent, Section 299 specifically prohibits joinder in this case, and the Federal Rule of Civil Procedure
17 21 permits dismissal for misjoinder.

18 This Motion to Dismiss is based on this Notice of Motion and Motion; the Memorandum of
19 Points and Authorities filed concurrently herewith; and such further evidence and argument as the
20 Court may permit or require at or prior to the time of the hearing on this Motion.

1 Dated: June 18, 2012

2 WAYNE BARSKY
3 JASON LO
4 JORDAN BEKIER
5 CASSANDRA GAEDT
6 GIBSON, DUNN & CRUTCHER LLP

7 By: /s/ Jason Lo

Jason Lo

8 Attorneys for CIE GAMES, INC., CROWDSTAR
9 INTERNATIONAL LIMITED, CROWDSTAR INC.,
10 CROWDSTAR NETWORK, LLC, ELECTRONIC
11 ARTS INC. d/b/a EA INTERACTIVE d/b/a PLAYFISH
12 d/b/a POGO GAMES, FUNZIO, INC., FUNZIO USA,
13 INC., ZYNGA INC., and DIGITAL CHOCOLATE,
14 INC.

CERTIFICATE OF SERVICE

I, the undersigned, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 333 South Grand Avenue, Los Angeles, California 90071.

On June 18, 2012, I caused the following document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filings to all known counsel of record:

**DEFENDANTS CIE GAMES, ELECTRONIC ARTS, CROWDSTAR, FUNZIO,
ZYNKA AND DIGITAL CHOCOLATE'S NOTICE OF MOTION AND
MOTION TO DISMISS UNDER 35 U.S.C. SECTION § 299 AND FED. R. CIV.
P. 21**

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

Executed on June 18, 2012, at Los Angeles, California.

/s/ Jason Lo
Jason Lo